

मामला क्रमांक Cr.M.P. 258/07 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	(Single Bench: Hon'ble Mr. Justice Dharendra Mishra)	
	<u>PETITIONER/ Complainant</u>	Devram Sahu, S/o Jhaduram Sahu, aged about 39 years, R/o Village Sitlapara Arang, Distt. Raipur (C.G.)
	<u>RESPONDENTS/ Non-applicant</u>	Vs. 1. Samaru Ram Sahu, S/o Bakhru Ram Sahu, aged 70 years. 2. Salik Ram Sahu, S/o Samaru Ram Sahu, aged 42 years. Both 1 & 2 R/o Sitlapara Arang, Distt. Raipur (C.G.) 3. Tulsiram Ram Sahu, 50 years, S/o Jethuram Sahu, R/o College Chowk, Gullu Rasta, Aarang, Distt. Raipur (C.G.) 4. Nemu Sahu, 77 years, S/o Bakhru Ram Sahu, R/o. at present Village Tarra Navapara, Rajim, Distt. Raipur (C.G.) 5. Dukhiya Bai Widow of Colu Ram Sahu (Dead) 6. Dasrath S/o Rambharosha, (Dead) 7. Devshir Bai W/o Ratan Lal Sahu (Dead) 8. State of C.G. Raipur, Through: Collector, Raipur (C.G.)
	<u>08.08.2007</u>	
	Mr. C.R. Sahu, Adv. for the petitioner.	
	Mr. G.K. Beriwal, Dy. Adv. General for respondent No.8-State.	
	Heard.	
	By the instant petition under Section 482 of the Cr.P.C. the petitioner has impugned the order dated 5.6.2007 passed in Criminal Revision No.44/07 whereby learned 12 th Additional Sessions Judge	

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आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	(F.T.C.), Raipur has rejected the criminal revision of the petitioner herein. The grievance of the petitioner is that in the proceedings under Section 145 of Cr.P.C. learned Sub Divisional Magistrate has passed an order dated 28.2.2003 and held that the petitioner herein was in possession of the disputed property two months prior to initiation of proceedings under Section 145 of Cr.P.C. i.e. on 27.6.1998 and accordingly ordered the possession to be given to the petitioner herein and since then the petitioner is in possession. However, both the courts below on the basis of evidence available on record have wrongly held that respondent No.1-Samaru was in possession of the disputed property before two months from date of initiation of the proceedings under Section 145 of Cr.P.C. i.e. on 27.6.1998. From perusal of the order passed by the Sub Divisional Magistrate dated 19.3.2007, which has been subsequently confirmed by the Additional Sessions Judge by the impugned order, it is observed that against the order dated 28.2.2003 a revision petition was preferred in the Court of Additional Sessions Judge, the same was allowed and the matter was remanded back to the Sub Divisional Magistrate with a direction to decide the petition under Section 145 of Cr.P.C. after considering the oral and documentary evidence available on record.	

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	Thereafter, the Sub Divisional Magistrate vide order dated 19.3.2007 has recorded a finding of fact that respondent No.1- Samaru was in possession of the disputed property two months before the date when proceeding under Section 145 was drawn. The above order was subsequently affirmed by the impugned order and thus there is concurrent finding of fact by the courts below that in fact respondent No.1-Samaru was in possession of the disputed property. So far as the other objection raised by learned counsel for the petitioner that during pendency of the proceeding under Section 145 of Cr.P.C. a civil suit has already been instituted by the petitioner herein and in view of the same the proceedings under Section 145 ought to have been dropped is concerned, learned Additional Sessions Judge after considering the law involved in this regard has rightly arrived at a conclusion that where the civil suit is filed subsequent to the proceedings under Section 145, in that situation the proceeding under Section 145 cannot be dropped. In the result, there is no illegality or infirmity in the impugned order warranting interference by this Court under Section 482 of Cr.P.C. The petition being devoid of substance is liable to be dismissed and the same is hereby dismissed.	
		Sd/- Dhirendra Mishra Judge